

REMARKS/ARGUMENTS

Claims 1-20 are pending in the current application. Claims 15-20 were withdrawn from the application by the Examiner pursuant 37 C.F.R. 1.142(b). Claims 3, 6-10 and 12-13 have been objected to because of several informalities. Amendments to each of these claims have been made to overcome these objections. Claim 5 was rejected under 35 U.S.C. § 112 second paragraph as being indefinite. Claim 5 has been amended to overcome the 112 rejection. Claims 1-14 have all been rejected under 35 U.S.C. § 103 as unpatentable as obvious over prior art. Applicant respectfully traverses all rejections.

Applicant has amended claims 3, 6-10, and 12-13 to overcome certain informalities pointed out by the Examiner. Claim 5 has been rejected under 35 U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, claim 5 in lines 1 and 2 used the clause "the machine is an agricultural machine" that was repetitive to claim 1 and the clause has been deleted as suggested by the Examiner. The Examiner also stated that there is "no clear recitation in lines 5-8 as to which claim structural elements perform "submitting" and "communicating" functions recited therein. The Applicant has amended claim 5 to more clearly point out that the at least one sensor senses operation characteristics of the machine, and submits its data containing information about the sensed characteristics to the process computer, and wherein the process computer communicates fault messages to a remotely located person. This amendment is supported by page 7 of the specification that states "in this case, step 108 follows in

which the process computer 42 computes fault information from the information delivered by sensor 44." Additionally from page 8, final paragraph through page 9 that explains the sending of the fault message from the process computer to a remote location. Consequently, all of the informalities and 112 rejections have been addressed by amendments to the claims that are supported by the original specification and place the application in a better form for appeal. Additionally, such changes do not cause additional research nor provide for a new scope of the claims. Therefore, the Applicant respectfully requests that all amendments be considered and that the claim objections and the 112 claim rejection be withdrawn.

New claims 15-20 were added by the Applicant in the previous office action. The Examiner restricted all the new claims stating that groups I and II, group I being claims 1-14 and group II being newly added claims 15-20, were two patentably distinct species of the claimed invention and that there was no generic claim presented in the instant application. Consequently, pursuant to 37 C.F.R. 1.142(b) the Examiner constructively elected the originally presented claims and withdrew claims 15-20. Applicant respectfully traverses this restriction requirement.

Under the statute, an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent or distinct. (See MPEP 803). The term independent means "that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect". (See MPEP § 802.01). The term distinct means "that two more

subjects as disclosed are related, for example, as combination in part (sub combination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, and are patentable over each other." (MPEP § 802.01).

Claims 1-14 are neither independent nor distinct from claims 15-20. First, the claims are not independent from one another because there is a relationship between the two subjects disclosed. For example, independent claim 1 claims a method of monitoring equipment whereas independent claim 15 also claims a method of monitoring equipment. Additionally, claim 1 monitors equipment for an agricultural machine as does claim 15. Likewise, both claim 1 and claim 15 require a method that involves automatically transmitting detected fault information. Consequently, group I is connected in effect to group II and there is a relationship between the two groups. Therefore, groups I and II are not independent from one another.

Additionally, the claims in group I are not distinct from the claims in group II. At the very least the subject matter within claims 1-14 is not distinct from independent claim 15. Specifically, claim 15 claims a method of monitoring equipment for an agricultural machine. Claim 1 claims a method of remote monitoring equipment for a machine and according to claim 1's first limitation the method involves monitoring equipment for an agricultural machine.

The first element of claim 15 states "detecting the status of at least one operative part of the agricultural machine". In claim 1 in the first element, the method involves monitoring equipment for an agricultural machine

for detecting operational fault information. By detecting operational fault information, the monitoring equipment must detect the status of an operational part and then determine that this part is not operating in a predetermined range and at which point and operational fault signal is transmitted. Claim 15 merely goes into greater detail describing the method of monitoring the equipment for an agricultural machine for detecting the operational fault information.

The next element of claim 15 states "processing the detected status to determine if the detected status falls within a first predefined range." Once again, in order to detect an operational fault as described in the specification, the system must detect whether a detected status falls within a first predefined range.

The next element of claim 15 is "processing the detected status to determine a performance parameter and determine if the performance parameter falls within a second predefined range." Claim 9 describes a plurality of operative parts of which the status of which may be detected. These parts include the engine's oil pressure, engine's temperature, the number of engine rotations, and the number of rotations of another operative element. Consequently, claims 1-14 properly show first and second performance parameters that can fall within a first and a second predefined range.

The next element of claim 15 states "automatically transmitting a fault message to a remote location when the detected status falls outside the first predefined range." Claim 1 claims automatically transmitting a detected fault information to a central information server that is remote from the agricultural machine.

The final element of claim 15 states "automatically transmitting a fault message to a remote location when the performance parameter falls outside the second predefined range." Once again, claim 7 discusses the use of a plurality of performance parameters that can be detected by the system such that when one of or all of the parameters show that they do not fall within a predetermined range a fault message will be sent.

Consequently, claim 15 is seen as a narrower claim than claim 1 and encompasses several of the ideas of the dependent claims 2-14 therein. However, when considering the concepts of all of claims 1-14 one can see that there is not a patentable distinction between the method claimed in claims 1-14 as compared to the method claimed in claim 15. Therefore group I and group II as identified by the examiner are not two patentably distinct species and the restriction requirement should be withdrawn. Consequently claims 15-20 should be considered by the Examiner.

CONCLUSION

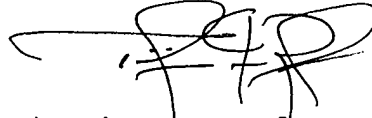
Therefore, Applicant respectfully requests that amendments to claims 2, 3, 5, 6, 7, 9, 10, 12, and 13 be entered to place the application in better form for appeal and also request that the restriction requirement be withdrawn, and that claims 15-20 be considered by the Examiner.

If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone the undersigned at 515/558-0200. All fees or extensions of time believed to be due in connection with this response are attached hereto; however, consider this a

Application No. 10/044,372
Docket No. P05454US1
Reply to Office Action of August 5, 2004

request for any extension inadvertently omitted, and charge
any additional fees to Deposit Account 50-2098.

Respectfully submitted,



Timothy J. Zarley
Reg. No. 45,253
ZARLEY LAW FIRM, P.L.C
Capital Square
400 Locust Street, Suite 200
Des Moines, IA 50309-2350
Phone No. (515) 558-0200
Fax No. (515) 558-7790
Customer No. 34082
Attorneys of Record

- JLH/bjs -